

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

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3 17-CV-5967 (NGG)

3 KELLEY AMADEI, ET AL,

4 Plaintiffs, United States Courthouse
5 Brooklyn, New York

6 -against-

7 ELAINE DUKE, ET AL,
8 Defendants.

9 -----x
10 February 9, 2018
11 11:30 a.m.
12

13 TRANSCRIPT OF CIVIL CAUSE FOR PRE MOTION CONFERENCE
14 BEFORE THE HONORABLE NICHOLAS G. GARAUFIS
15 UNITED STATES SENIOR DISTRICT JUDGE

16 APPEARANCES

17 Attorney for Plaintiff: AMERICAN CIVIL LIBERTIES UNION
18 FOUNDATION

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21 BY: HUGH HANDEYSIDE, ESQ.
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23 -and-

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1 nature of the claims to stay discovery. We have submitted
2 targeted and limited requests already since her ruling. And
3 her ruling wasn't clearly erroneous, so we would argue that
4 discovery should proceed in due course. Memories fade, the
5 burden on the defendants is not particularly onerous. We want
6 to find out more about these factual issues that we -- as I've
7 said, that are so critical to the adjudication of these
8 claims, that can proceed without prejudicing defendants in --
9 as the motion to dismiss is briefed.

10 MS. OLDS: Our concern, Your Honor, if I may, is
11 just as I mentioned, having to produce documents, internal
12 documents on a claim that there may be no jurisdiction for at
13 all. Judge Scanlon found -- in part, she denied our motion on
14 the grounds that memories tend to fade, but we think that if
15 that were case, then there would never be a stay for
16 discovery. So we think this is a case where it is appropriate
17 for the court to stay discovery and determine the
18 jurisdictional issue and whether the complaint is sufficient
19 and if the Court finds it is, then proceed with discovery at
20 that point.

21 THE COURT: I see. Well, this is also a case which
22 involves inferentially claims that people are being targeted
23 for inspection without good cause or justification, and in an
24 environment where there is proactive enforcement of the
25 immigration laws in ways that may be in violation of the

1 constitutional rights of citizens and non-citizens alike, so
2 we need to get to the bottom of this and fast. And if there
3 is going to be a rule making, let there be a rule making, but
4 if there's no APA basis upon which to do something like this
5 on a domestic flight, then it needs -- potentially it needs
6 close scrutiny by the Court and I'm sure someone's available
7 to conduct the discovery on behalf of the defendants.

8 So the motion to stay discovery is denied. Okay.

9 Thank you. Have a nice day.

10 MR. HANDEYSIDE: Thank you, Your Honor.

11 MS. OLDS: Thank you, Your Honor.

12 (Matter concluded.)

13 * * * *

14 I certify that the foregoing is a correct transcript from the
15 record of proceedings in the above-entitled matter.

16

17 s/ Georgette K. Betts

September 14, 2018

18 GEORGETTE K. BETTS

DATE

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